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Technical assistance and capacity-building

Note verbale dated 12 August 2015 from the Permanent Mission of Cambodia to the United Nations Office at Geneva addressed to the Office of the United Nations High Commissioner for Human Rights

The Permanent Mission of the Kingdom of Cambodia to the United Nations Office and other international organizations in Geneva presents its compliments to the Office of the United Nations High Commissioner for Human Rights and, with reference to the note verbale of the Office of the High Commissioner of 5 August 2015, has the honour to enclose herewith the comments of the Royal Government of Cambodia on the report of the Special Rapporteur on the situation of human rights in Cambodia, Prof. Rhona Smith, submitted to the Human Rights Council at its thirtieth session (A/HRC/30/58) (see annex).

In this connection, the Permanent Mission wishes to request the Office of the High Commissioner to kindly have the above-mentioned comments* published in full as a government letter to be circulated to the Human Rights Council at its thirtieth session.

* Reproduced as received, in the language of submission only.

GE.15-14372(E)

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Annex to the note verbale dated 12 August 2015 from the Permanent Mission of Cambodia to the United Nations Office at Geneva addressed to the Office of the United Nations High Commissioner for Human Rights

[English only]

Comments on the draft report of Ms. Rhona Smith

1. Ratification

With regard to the ratification of covenants, conventions and optional protocol of international treaties, the Kingdom of Cambodia has ratified the followings:

- Convention on the Rights of Persons with Disabilities (CRPD) on 7 August 2012
- Optional protocols of the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) on 13 October 2010
- International Convention on the Protection of Enforced Disappearance (CED) on 27 June 2013
- Other optional protocols Cambodia being considered by Cambodia include:
    - Two optional protocols of the International Covenant on Civil and Political Rights (ICCPR)
    - Optional protocol of the International Covenant on Economic, Social and Cultural (ICESC) Rights
    - Optional protocol of the Convention on the Rights of Persons with Disabilities (CRPD).

Cambodian Human Rights Committee and Ministry of Foreign Affairs and International Cooperation have been organizing consultative meetings with relevant institutions to further look into this matter in order to make suggestions to the royal government to decide.

The Royal Government of Cambodia has been implementing the content of the Convention on the Rights of Persons with Disabilities in the national law - Law on the Protection and Promotion of the Rights of Persons with Disabilities. The law promotes the rights and dignity of persons with disabilities to be respected, reduces discrimination against persons with disabilities, provides equal opportunities to persons with disability in livelihood generation, employment, income generation, access to education, health and social services, involvement in political activities, social development and accessibility for persons with disabilities. More especially, national strategic development plan, policies and programs of all ministries, institutions and authority at all levels also included issues of disabilities. This law also encourages and determines the obligations of state institutions, private sector and NGOs in obtaining and using the potentials of persons with disabilities and encourages all development partners to mainstream and include persons with disability into their development projects. Meanwhile, the royal government has released a number of regulations to promote persons with disabilities, which include:

- Sub-decree No. 216 ANKr.BK on the preparation and functioning of the Disability Action Council dated 02 May 2013
- Sub-decree No. 108 ANKr.BK on the determination of quota and formality of recruiting persons with disabilities to work dated 30 August 2010

- Sub-decree No. 118 ANKr.BK on the preparation and functioning of People with Disabilities Foundation dated 13 September 2010.

2. Land rights

The Royal Government of Cambodia has made great efforts in setting up and adopting numerous policies, laws and regulations in line with the existing international instruments in land sector, in order to respond to the needs of the people and society as a whole, especially to ensure that the basic rights of the people shall be protected under the Constitution of the Kingdom of Cambodia.

The main objective is aimed at addressing poverty, ensuring equitable, transparent, sustainable and effective land management with fair distribution and use of land.

The RGC has implemented the policy and regulatory framework currently in force to address all dimension of land issues associated with political, economic, social, environmental and cultural aspects along with wide participation and consultation from all relevant stakeholders, (including international organizations, civil society and people at the community levels).

Since 2001, the Royal Government has made great efforts in adopting the policy and regulatory framework within the context of the Land Law of 2001, and under the existing Civil Code and the Code of Civil Procedure to ensure the safety of land occupation, especially legal ownership of the people, based on the principles of human rights (especially in the context of the economic, social and cultural rights) consistent with free market and democracy as enshrined in the Constitution and relevant laws.

In response to this commitment, a great number of schemes have been set for implementation with technical and financial supports from all relevant stakeholders (national and local institutions including development partners, civil society and local community people). This transparent and open approach of cooperation and partnership promote a systematic and non-systematic land registration would ensure that property rights, and land rights (and/or housing rights), be guaranteed by the Constitution (Art. 44) and the Land Law of 2001.

The Constitution and Law provide guarantees with proper and fair compensation for the implementation of all development projects which may affect the legal rights of the people. The Law on Expropriation promulgated on 26 February 2010 provides a policy with a detailed guidance on the implementation in a transparent, participatory and equitable manner to ensure that proper and fair compensation be implemented based on legal procedure.

With regard to illegal land occupants, the Royal Government of Cambodia, however, continues to implement the law in a flexible manner by adhering to the basic principles of the United Nations Instrument on Housing Rights Program, especially for those groups of vulnerable and poor households that have been living and occupying state land illegally as stated in the Land Law and other regulations (such as the release of: Circular No. numbered 02 on Illegal Occupation of State Land dated 26 February 2007, and Circular No. numbered 03 on the Solution to Temporary Structure on State Land Illegally encroached in the Capital, Municipalities and Town Areas dated 31 May 2010).

The national policy on housing has been drafted; and it will be brought for further discussion and will be finalized in the future. The main objective of this guideline policy is to address and resolve the plights of the poor and most vulnerable groups. Those policies include: permission to stay temporarily, provision of possession rights, symbolic rental fee of the resettlement (as the state provides a replacement with a new and suitable location), development on the spot or compensation in monetary form or in-kind support at an

appropriate extent, etc.;. All measures taken to address any solution requires the participation from the people at the community level as well as from relevant NGOs based on the respect for the principle of social and economic benefit of the people along with the assessment of environmental impact.

The eviction of people from their place of residence is not a policy of the Government. The instrument on housing rights and eviction of the United Nations also places emphasis on the issue of eviction. Forced eviction should only be applied in accordance with the United Nations instruments/documents. In this sense, the Royal Government temporarily recognizes the people's rights to illegal land occupation until they find a legal place of residence. The Royal Government of Cambodia abides by the UN relevant instruments and legal principles and guidelines, taking into account the concern, interest, safety, security of the people as well as environmental protection aspect.

In case of resettlement, it is true that the Royal Government has to set priority in developing a number of necessary infrastructures on the relocation site. If the relocation site is not properly developed, (and if it only happens temporarily), the Royal Government continues to provide financial and employment supports along with provision of physical infrastructure, etc. In the end, the people in settlement will enjoy the benefits and their rights of compensation as well as their rights of possessing a new relocation in a fair, beneficial and sustainable manner.

The historical campaign in the implementation of "Old Policy, New Action" on land sector which was introduced under the wise initiative of Samdech Akka Moha Sena Padei Techo Hun Sen, Prime Minister of the Kingdom of Cambodia, has been launched in the efforts to carry out the measurement program for distribution of land to the citizen of more than 380.000 titles out of the 640.000 plots announced and more than 680.000 plots already measured, equivalent to almost 1.1 million hectares. According to the plan set forth, the Royal Government will continue its effort to register the land nationwide till 2018 to achieve 70% of the total plot across the country which ranges between 6 to 7 million plots. The result achieved so far has shown that, shortage of land, landlessness, and ambiguity in land occupation have practically been and are being addressed in parts and resolved successively with the aim at bringing more socioeconomic growth in rural areas in the coming years.

3. Law on non-governmental organizations and associations

The Royal Government of Cambodia has clearly determined that civil societies have a role as an effective partner of the Royal Government in the construction of the country. In this view, the Royal Government has encouraged in all forms to associations and non-governmental organizations which are acting to serve citizens across the country, and welcomed for the participation of associations and non-governmental organizations in the restoration process and economic-social affair development, including protection and promotion of democracy and respect for human rights. In this spirit, the Royal government has to push the establishment and the implementation of the Law on Non-Governmental Organizations and Associations. The purposes of the drafted Law is to define the procedures and conditions of creation, registration, and memorandum of understanding which enable all level of authorities to facilitate the activities of local, as well as international associations and non-governmental organizations in the Royal of Cambodia. The provision of rights for Khmer citizens to create associations or nongovernmental organizations is an incentive for cooperation between the Royal Government and associations and non-governmental organizations. In accordance with the purpose and the necessary above, the Royal Government has drafted the Law on Non-Governmental Organizations and Associations, and put for public discussion many times and also organized national workshops three times with participatory comments from representatives

of concerned institutions, national and international civil societies organizations, embassy representatives, European Union representative and representative of the OHCHR in Cambodia before summited to the office of the council of ministers. This drafted Law was enacted by the plenary session of the office the council of ministers on June 05, 2015, and was enacted by the National Assembly on July 13, 2015.

United Nations A/HRC/30/G/2

General Assembly

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Human Rights Council
Thirtieth session
Agenda item 4
Human rights situations that require the Council's attention

Letter dated 10 August 2015 from the Chargé d'affaires a.i. of Georgia to the United Nations Office and other international organizations in Geneva addressed to the President of the Human Rights Council

I have the honour to present the second quarterly report (April – June 2015) of the Ministry of Foreign Affairs of Georgia on the human rights situation in the occupied regions of Georgia (see annex).

In this context, I would be highly appreciative if you could kindly circulate the present letter and the annex thereto* as a document of the thirtieth session of the Human Rights Council under agenda item 4.

(*Signed*) Irakli Jgenti

Chargé d'affaires a.i.

* Reproduced as received, in the language of submission only.

GE.15-14182(E)

Please recycle

Annex to the letter dated 10 August 2015 from the Chargé d'affaires a.i. of Georgia to the United Nations Office and other international organizations in Geneva addressed to the President of the Human Rights Council

[English only]

Second quarterly report (April – June 2015) of the Ministry of Foreign Affairs of Georgia on the human rights situation in the occupied regions of Georgia

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1. Introduction

1.1 Aims of the report and methodology applied

This is the second quarterly report of the Ministry of Foreign Affairs of Georgia, covering the period of April-June 2015 and aiming at assessing the human rights situation in the occupied regions of Georgia. The first quarterly report covered the period of January-March 2015. The Ministry of Foreign Affairs of Georgia will further continue the preparation of such reports on a quarterly basis. This reporting exercise aims to contribute to the provision of regular and updated information to the international community, to states as well as to international inter-governmental and non-governmental organizations, on the human rights situation in the occupied regions of Georgia.

As for the applied methodology, this reporting exercise consolidates and assesses existing information from various open sources, national and international, on violations of human rights in the occupied regions of Georgia. Due to limitations on its length, the report does not aim to collect/contain information on all cases of violations of human rights in the occupied regions of Georgia; it aims to consolidate and assess only some of the most known examples of violations. The methodology applied does not provide for the conduct of fact-finding visits to the occupied regions of Georgia, nor to the conduct of interviews. Therefore the methodology applied does not enable this reporting exercise to collect and produce new data on the human rights situation in the occupied regions of Georgia.

1.2 Occupation of regions of Georgia and responsibility of the occupying power for human rights violations

Currently, the territories of two regions of Georgia – Abkhazia, Georgia and the Tskhinvali Region, Georgia are occupied by the Russian Federation. The Russian Federation as the occupying power, exercises effective control over these territories. The occupation of regions of Georgia by the Russian Federation has been recognized by the international community[1]. As a result of military aggression, creeping annexation and occupation policy, well-planned and systematically implemented by the Russian Federation regarding the territory of Georgia, between 1991 and 2015 several hundreds of thousands of persons were expelled from their homes to become IDPs and refugees and they have been

[1] For example, "Resolution on the Situation in Georgia" (2012), Parliamentary Assembly of the Organization for Security and Co-operation in Europe (OSCE PA), paragraphs 4 and 7; "European Parliament Resolution on the Conclusion of the Association Agreement with Georgia", 18 December 2014, European Parliament, paragraphs D and 11; "European Parliament Resolution on the Negotiations of the EU-Georgia Association Agreement", 17 November 2011, European Parliament, paragraph F; Resolution 1633 (2008) "The consequences of the war between Georgia and Russia", Parliamentary Assembly of the Council of Europe (PACE), paragraph 6; Resolution 1647 (2009) "Implementation of Resolution 1633 (2008) on the consequences of the war between Georgia and Russia", Parliamentary Assembly of the Council of Europe (PACE), paragraph 16; Resolution 1648 (2009) "The Humanitarian Consequences of the War between Georgia and Russia", Parliamentary Assembly of the Council of Europe (PACE), paragraphs 6, 24.14 and 24.15; Resolution 1801 (2011) "On Honouring of Obligations and Commitments by Georgia", Parliamentary Assembly of the Council of Europe (PACE), paragraph 22; Resolution 1916 (2013) "Georgia and Russia: the Humanitarian Situation in the Conflict and War-affected Areas", Parliamentary Assembly of the Council of Europe (PACE), paragraph 8.

deprived of their internationally recognized right to a voluntary, safe and dignified return to places of their permanent residence.[2] It should be emphasized that during the reporting period[3] the United Nations General Assembly adopted a resolution recognizing "the right of return of all internally displaced persons and refugees and their descendants, regardless of ethnicity, to their homes throughout Georgia, including in Abkhazia and the Tskhinvali region/South Ossetia".[4] It should be noted with particular emphasis, that recently the Russian Federation signed the so called "Treaty on Alliance and Strategic Partnership" with its occupation regime in Sokhumi and the so called "Treaty on Alliance and Integration" with its occupation regime in Tskhinvali; thus going well beyond its military occupation and laying ground for annexation[5] of Georgian territories. These so called "treaties" contradict principles of international law.[6]

During the reporting period[7], the Committee of Ministers' Deputies of the Council of Europe, made a decision in which it recognized effective control of the Russian Federation in Abkhazia and Tskhinvali regions, namely it "called on the Russian Federation to facilitate and grant unrestricted access to the Council of Europe bodies, as well as the Secretariat delegation, when preparing the Secretary General's consolidated reports, to the areas affected by the conflict in Georgia; invited the Secretary General to engage in a dialogue with the Russian Federation and Georgia to this end."[8] Since the August War of 2008, the international community has been calling on the Russian Federation to bear responsibility for violations of human rights in the territories of Georgia which are under Russia's effective control.[9] The UN Human Rights Committee issued recommendations to the Russian Federation on the issue at its 97th (2009) and 113th (2015) sessions.[10] According to the European Parliament, "whereas Russia [in 2014] continues to occupy the Georgian regions of Abkhazia and the Tskhinvali region/South Ossetia, in violation of the fundamental norms and principles of international law; whereas ethnic cleansing and

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[2] Namely, as a result of the ethnic cleansings of 1991-1993 and 1998, approximately 450 000 persons were expelled from places of their permanent residence: approximately 20 000 persons from the Tskhinvali Region/South Ossetia, Georgia in 1991-1992; approximately 370 000 persons from Abkhazia, Georgia in 1992-1993; and approximately 60 000 from the Gali district Abkhazia, Georgia in 1998. In addition, as a result of ethnic cleansing during the 2008 August War and its aftermath, tens of thousands IDPs and refugees from the Akhalgori district and its adjacent areas, as well as Kodori Gorge/Upper Abkhazia were expelled from places of their permanent residence.

[3] April-June 2015.

[4] Resolution adopted by the General Assembly on 3 June 2015 on Status of internally displaced persons and refugees from Abkhazia, Georgia, and the Tskhinvali region/South Ossetia, Georgia A/RES/69/286, paragraph 1. See also previous resolutions: 68/274 of 5 June 2014; 67/268 of 13 June 2013; 66/283 of 3 July 2012; 65/287 of 29 June 2011 etc.

[5] "European Parliament Resolution on the Conclusion of the Association Agreement with Georgia", 18 December 2014, European Parliament, paragraph 11.

[6] "The Council of Europe and the conflict in Georgia", decision of the Committee of Ministers' Deputies of the Council of Europe, 1227th Meeting (12 May 2015), paragraph 2.

[7] April-June 2015.

[8] "The Council of Europe and the conflict in Georgia", decision of the Committee of Ministers' Deputies of the Council of Europe, 1227th Meeting (12 May 2015), paragraph 7.

[9] For example, Resolution 1647 (2009) "Implementation of Resolution 1633 (2008) on the consequences of the war between Georgia and Russia", Parliamentary Assembly of the Council of Europe (PACE), paragraph 7; "European Parliament Resolution on the Negotiations of the EU-Georgia Association Agreement", 17 November 2011, European Parliament, paragraph F.

[10] Concluding Observations of the UN Human Rights Committee: Russian Federation, 97th Session, 2009, CCPR/C/RUS/CO/6 pp. 5-6; Concluding Observations of the UN Human Rights Committee: Russian Federation, 113th Session, 2015, CCPR/C/RUS/CO/7, p. 2.

forcible demographic changes have taken place in the areas under the effective control of the occupying forces, which bear the responsibility for human rights violations in these areas, including violations of the rights to free movement, people-to-people contacts and education in one's native language."[11]

1.3 Occupation line and installation of barbed wire fences

The occupation line along the administrative boundary line (ABL) with Abkhazia and the Tskhinvali Region separates Georgia from its two occupied territories. The occupation line, established by the occupying power since the August War of 2008, prevents several hundreds of thousands of IDPs and refugees from returning to places of their permanent residence. In 2009 the transfer of the control of the occupation line to the Russian FSB officers puts further restrictions on ethnic Georgians: Russia continues to place undue restrictions on the local population wishing to cross the occupation line[12] that often runs through their orchards, yards, grazing fields, agricultural plots and cemeteries. People are regularly detained by Russian FSB officers for so called "illegal border crossings" while the operating crossing points along the occupation line allow crossings only to individuals having one of the types of "documents" recognized by the occupying power and based on vague criteria as to the validity of these documents.[13] Those unable to present those documents or show up at the crossing point out of working hours, are denied the right to cross, often leading to casualties among those locals, including children and women, seeking urgent medical treatment.

In the spring of 2011, the Russian occupation forces intensified the process of the installation of barbed wire fences and other artificial obstacles along the occupation lines in Abkhazia and the Tskhinvali Region (launched back in 2009). This process has been further intensified since January 2013 and is still ongoing. Currently, the total length of artificial barriers along the occupation line only in Tskhinvali Region is 51 km. In some segments, the barbed wire fence and the so called "border signs" have intruded into territory controlled by the Government of Georgia, thus extending the area of occupation.

The installation of barbed wire fences and artificial obstacles significantly affects the everyday life of the local population; namely it divides families and communities and prevents people-to-people contact; blocks the access of the local population to their agricultural lands and to potable/irrigation water systems; it prevents the local population from visiting religious sites and from having an access to cemeteries; and, most alarmingly, blocks local residents from reaching the emergency medical services. During the reporting period[14], the Committee of Ministers' Deputies of the Council of Europe, made a decision in which it "expressed serious concern at the continued installation of barbwire fences and other artificial obstacles by the Russian Federation violating, *inter alia*, human rights and fundamental freedoms, including but not limited to the right to free movement, the right to property, the right to family life and the right to education in the native language of those residing within the Georgian regions of Abkhazia and South Ossetia and in the adjacent

[11] "European Parliament Resolution on the Conclusion of the Association Agreement with Georgia", 18 December 2014, European Parliament, paragraph D.

[12] Resolution 1683 (2009) "The War between Georgia and Russia: One Year After", Parliamentary Assembly of the Council of Europe (PACE), paragraphs 5 and 7.

[13] Consolidated Report on the Conflict in Georgia, Council of Europe (November 2014 - March 2015), 22 April 2015, SG/Inf (2015) 18, paragraph 44.

[14] April-June 2015.

areas, as well as the fundamental right of IDPs to a safe and dignified return."[15] It should be noted that the installation of barbed wire fences along the occupation line in the Tskhinvali Region, Georgia, had a direct impact on 200 local families and some were compelled to flee, thus creating a further wave of IDPs. It should be emphasized that the international community condemned the process of the illegal installation of barbed wire fences and other artificial obstacles along the lines of occupation.[16]

1.4 Occupied territories as "Black Holes" of the human rights protection mechanisms

Former UN High Commissioner for Human Rights, Navy Pillay, assessed Georgia's occupied territory of South Ossetia/Tskhinvali Region as a "black hole" and "one of the most inaccessible places on earth"; she noted that very little is known about what is happening in this area and "more attention needs to be paid to the situation of human rights in South Ossetia and Abkhazia."[17] Notably, the High Commissioner, similarly to other representatives of international organizations, was denied access to the occupied region. It is noteworthy that "the Assembly [PACE] considers it unacceptable that persons residing in Abkhazia and South Ossetia should not be effectively covered by the human rights protection mechanisms granted to them as citizens of a Council of Europe member state under the European Convention on Human Rights, as well as other relevant Council of Europe conventions, as a result of the consequences of the war between Russia and Georgia. Such a human rights protection black hole should not be allowed to exist within the Council of Europe area."[18]

These two regions still remaining under foreign military occupation, constitute above all dangerous black holes in verifying human rights violations and holding the violators accountable. Protection of human rights in the occupied regions of Georgia remains a challenge not only for the government of Georgia but also for the international community. For years, the Georgian authorities have been trying to involve international organizations in the issue of the protection of human rights in the occupied regions of

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[15] "The Council of Europe and the conflict in Georgia", decision of the Committee of Ministers' Deputies of the Council of Europe, 1227th Meeting (12 May 2015), paragraph 3.

[16] "Statement by the Spokesperson of EU High Representative Catherine Ashton on the placement of obstacles along administrative boundary lines in Georgia", 1 October 2013 (131001/02); "Pillay praises Georgia's plan to introduce comprehensive human rights reforms, Opening remarks by UN High Commissioner for Human Rights, Navi Pillay, at a press conference in Tbilisi" Georgia, 21 May 2014, available at http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14624#sthash.OkwTyUpY.dpuf; "State of Democracy, Human Rights and Rule of Law in Europe", Report by the Secretary General of the Council of Europe, 124th Session of the Committee of Ministers, 4-5 May 2014, p. 56; "EUMM: Recent installation of fences near Ditsi is unacceptable", 28.05.2013; "EUMM voices concern about the impact of fences on local communities", 02.08.2013; "EUMM notes resumption of fencing activities", 29.11.2013; "EUMM: Recent installation of fences near Ditsi is unacceptable", 28.05.2013; "EUMM voices concern about the impact of fences on local communities", 02.08.2013; "EUMM notes resumption of fencing activities", 29.11.2013.

[17] "Pillay praises Georgia's plan to introduce comprehensive human rights reforms, Opening remarks by UN High Commissioner for Human Rights, Navi Pillay, at a press conference in Tbilisi" Georgia, 21 May 2014, available at http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14624#sthash.OkwTyUpY.dpuf.

[18] Resolution 1647 (2009) "Implementation of Resolution 1633 (2008) on the consequences of the war between Georgia and Russia", Parliamentary Assembly of the Council of Europe (PACE), paragraph 7.

Georgia. The Georgian government keeps on emphasizing the significance of the access of international human rights monitoring mechanisms in Abkhazia, Georgia and the Tskhinvali Region, Georgia.[19] It is deplorable that the European Union Monitoring Mission (EUMM) in Georgia is prevented from monitoring inside the occupied regions, as provided by the mandate. The occupying power, exercising effective control, has been preventing numerous international organizations, including humanitarian[20], from entering those territories: this represents yet another blatant attempt to conceal grave human rights violations which systematically occur in this area. Here again it should be recalled that during the reporting period[21], the Committee of Ministers of the Council of Europe called on the Russian Federation to grant access to the Council of Europe bodies to the Abkhazia and Tskhinvali regions of Georgia.[22]

2. Freedom from torture and ill-treatment

2.1 Introduction

According to some information sources, there are extremely bad conditions in the prisons in the occupied region of Abkhazia; some inmates experience extremely bad physical and physiological treatment.[23] During and after the August War of 2008, numerous cases were reported from the occupied regions of Georgia of torture and ill-treatment.[24] It should be noted that the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) noted the practice of ill-treatment and abuse during detention, as well as poor detention conditions, in occupied Abkhazia.[25]

[19] Consolidated Report on the Conflict in Georgia, Council of Europe (October 2013-March 2014), 22 April 2014, SG/Inf (2014) 17, paragraph 39.

[20] "Human Rights in the War-Affected Areas Following the Conflict in Georgia", OSCE/ODIHR, 27 November 2008, p. 72.

[21] April-June 2015.

[22] "The Council of Europe and the conflict in Georgia", decision of the Committee of Ministers' Deputies of the Council of Europe, 1227th Meeting (12 May 2015), paragraph 7.

[23] See for example, Report of the Year 2014 of the Public Defender of Georgia on the Situation of Rights of the Population Affected by the Conflicts, 5 June 2015, page 23.

[24] "Human Rights in the War-Affected Areas Following the Conflict in Georgia", OSCE/ODIHR, 27 November 2008, pp. 24-25, p. 36, p. 59, 74; "August Ruins", Report of the Georgian Non-Governmental Organizations on Violations of Fundamental Human Rights and International Humanitarian Law, August War, 2008, Tbilisi 2009, p. 40; "Russia's Responsibility for Human Rights in Occupied Regions of Georgia" Submission from the Georgian Young Lawyers' Association (GYLA), National Institute for Human Rights (NIHR) and Human Rights Priority for consideration at the 113th Session of the Human Rights Committee (16 March – 2 April 2015) Russian Federation, p. 3 and 9.

[25] Report on the visit to the region of Abkhazia, Georgia, carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 27 April to 4 May 2009. It should be also noted that in 2015, Mr Juan E. Mendez, the UN Special Rapporteur on Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment visited Georgia, but was not allowed to visit the occupied regions of Georgia.

2.2 Current situation

Numerous cases were noted during the reporting period[26] on violations of the right to freedom from torture and ill-treatment.[27] For example information available in the Georgian media and other open sources suggest the following: on 3rd April 2015, husband and wife, residents of the village of Pirveli Otobaia, Gali district,[28] were detained by Russian FSB officers for so called "illegal border crossing" in the area of the village of Meore Otobaia, Gali district, and were taken to the *de facto* Abkhazia State Security office in Gali. During their detention while being interrogated, one detainee (the husband) was physically assaulted by the Russian FSB officers; on 10th April 2015, a resident of the village Tagiloni, Gali district, was detained by Russian FSB officers for so called "illegal border crossing" in the area of the village of Nabakevi, Gali district, and was taken to the *de facto* Abkhazia State Security office in Gali. During the detention the detainee was severely beaten by the Russian FSB officers; on 12th May 2015, two residents of the village of Nabakevi, Gali district, were detained by Russian FSB officers for so called "illegal border crossing" in the area of the village of Nabakevi, Gali district, and were taken to the *de facto* Abkhazia State Security office in Gali. During the detention the detainees were severely beaten by Russian FSB officers. According to information disseminated on 8th June 2015, several Russian militaries raped[29] a woman in the village of Merkheuli on 6th June 2015. The victim was a visitor from a neighbouring village. According to the same source, two Russian militaries, those blamed by family members of the victim, are relocated in the Bombora military base.[30]

2.3 Conclusion

Therefore it can be concluded that the situation described in the occupied regions of Georgia and examples provided for the reporting period[31] constitute infringements on freedom from torture and illtreatment and therefore are violations of Article 7 of the International Covenant on Civil and Political Rights (ICCPR); Article 5 of the Universal Declaration of Human Rights (UDHR); Article 3 of the European Convention on Human Rights (ECHR); and the OSCE commitments[32].

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[26] April-June 2015

[27] See weekly press reviews on the human rights violations and current events in Abkhazia, prepared by the Justice Department of Georgia's Autonomous Republic of Abkhazia, April-June 2015

[28] Gali districted is located in the occupied Abkhazia region

[29] It should be noted that an act of rape by an official of the state can amount to torture under the ECHR (Aydin v Turkey, Judgment of 25 September 1997, paragraphs 83 and 86)

[30] See weekly press review on the human rights violations and current events in Abkhazia, prepared by the Justice Department of Georgia's Autonomous Republic of Abkhazia, April-June 2015

[31] April-June 2015

[32] The Vienna Concluding Document (1989) prohibits torture and other cruel, inhuman or degrading treatment or punishment. Paragraph 23.4. The Paris Document (1990) also prohibits torture and other cruel, inhuman or degrading treatment or punishment; the Istanbul Charter for European Security commits to "eradicating torture and other cruel, inhuman or degrading treatment or punishment throughout the OSCE area." Paragraph 21.

3. Arbitrary detentions

3.1 Introduction

Since the August War of 2008, in the occupied regions of Georgia, cases of arbitrary detention of ethnic Georgians have been very common; in addition, the Russian FSB officers regularly carry out arbitrary detention for so called "illegal border crossing" along the occupation line.[33] There are cases when Russian FSB officers enter the territory controlled by the central government of Georgia and detain local residents in their orchards, on village roads or in cemeteries (for example in the villages of Plavi, Bershueti and Zemo Sobisi, all located in the adjacent areas to the occupied Tskhinvali Region).[34] Between 2009 and March 2015, in total 2117 people were detained by Russian FSB officers for so called "illegal border crossing"; 1416 were detained along the occupation line in the Abkhazian region[35] and 701 in the Tskhinvali region.[36] The following number of arbitrary detentions took place by Russian officers in the years 2009-2014: 191 detainees in 2009; 191 detainees in 2010; 237 detainees in 2011; 294 detainees in 2012; 553 detainees in 2013; 512 detainees in 2014.[37] In most cases detention is followed by fines and later release.[38] It has been observed that the "detention period varies from several days up to several months or years without due access to procedural guarantees and right to fair trial."[39]

[33] Georgia's Human Rights Report for 2013, United States Department of State, p. 15, available at http://www.state.gov/documents/organization/220492.pdf; "Human Rights in the War-Affected Areas Following the Conflict in Georgia", OSCE/ODIHR, 27 November 2008, pp. 24-25, p. 25, pp. 37-38, 74; "August Ruins", Report of the Georgian Non-Governmental Organizations on Violations of Fundamental Human Rights and International Humanitarian Law, August War, 2008, Tbilisi 2009, p. 40; "Human Rights in Areas Affected by the South Ossetia Conflict, Special Mission to Georgia and Russian Federation", by Thomas Hammarberg, the Council of Europe Commissioner for Human Rights (Vladikavkaz, Tskhinvali, Gori, Tbilisi and Moscow, 22-29 August 2008), paragraph 94; "Pillay praises Georgia's plan to introduce comprehensive human rights reforms, Opening remarks by UN High Commissioner for Human Rights, Navi Pillay, at a press conference in Tbilisi," Georgia, 21 May 2014, available at http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14624#sthash.OkwTyUpY.dpuf.

[34] 2014 Annual Report of the Public Defender of Georgia on the Situation of Human Rights and Fundamental Freedom in Georgia, page 839.

[35] However according to the Russian Border Guards' information, during the last 5 years, approximately 10 000 people were detained by them along the occupation line in the Abkhazian region for so called "illegal border crossing". See http://www.apsnypress.info/news/pogranupravlenie-fsb-rossii-v-abkhazii-otmechaet-pyatuyu-godovshchinu-so-dnyaobrazovaniya.

[36] "Georgian Citizens Detained by Russian Occupational Troops in 2009-2015", 18 May, 2015, Institute for Development of Freedom of Information (IDFI).

[37] "Georgian Citizens Detained by Russian Occupational Troops in 2009-2015", 18 May, 2015, Institute for Development of Freedom of Information (IDFI).

[38] Report of the Year 2014 of the Public Defender of Georgia on the Situation of Rights of the Population Affected by the Conflicts, 5 June 2015, page 21.

[39] "Russia's Responsibility for Human Rights in Occupied Regions of Georgia" Submission from the Georgian Young Lawyers' Association (GYLA), National Institute for Human Rights (NIHR) and Human Rights Priority for consideration at the 113th Session of the Human Rights Committee (16 March – 2 April 2015) Russian Federation, p. 3.

3.2 Current situation

Numerous cases have been reported during the reporting period[40] on arbitrary detention in the occupied regions[41]. Numerous sources state that arbitrary detention took place during the reporting period. For example, information available in the Georgian media and other open sources report the following: on 1st April 2015, a resident of the village of Kere, Gori district, was detained by Russian FSB officers for so called "illegal border crossing". The detainee was released on 2nd April after paying a fine amounting to 2000 rubles; on 25th April 2015, an under age resident of the village of Nabakevi, Gali district, was detained by Russian FSB officers for so called "illegal border crossing" and was taken to the *de facto* Abkhazia State Security office in Gali; on 28th April 2015, seven residents of the villages of Nabakevi and Tagiloni, Gali district, were detained by Russian FSB officers for so called "illegal border crossing" and were taken to the *de facto* Abkhazia State Security office in Gali; on 10th May 2015, approximately 30 residents of Gali district, including a school child from the village of Nabakevi, Gali district, were detained by Russian FSB officers for so called "illegal border crossing" and were taken to the *de facto* Abkhazia State Security office in Gali; on 18th May 2015, a resident of the village of Adzvi, Gori district, was detained by Russian FSB officers for so called "illegal border crossing" in the area of the village of Adzvi, Gori district. The detainee was released on 19 May after paying a fine amounting to 2 000 rubles; on 3rd June 2015, two residents (mother and under age daughter) of the village of Nabakevi, Gali district, were detained by Russian FSB officers for so called "illegal border crossing" in the area of the village of Nabakevi, Gali district, and were taken to the *de facto* Abkhazia State Security office in Gali; on 9th June 2015, three residents of the village of Okumi, Gali district, were detained by Russian FSB officers for so called "illegal border crossing" in the area of the village of Nabakevi, Gali district, and were taken to the *de facto* Abkhazia State Security office in Gali; on 20th June 2015, a resident of Tbilisi was detained by Russian FSB officers for so called "illegal border crossing" in the area of the village of Mosabruni, Akhalgori district; on 22nd June 2015, a resident of the village of Nabakevi, Gali district, was detained by Russian FSB officers for so called "illegal border crossing" and was taken to the *de facto* Abkhazia State Security office in Gali; on 30th June 2015, a resident of the village of Plevi, Khashuri district, was detained by Russian FSB officers for so called "illegal border crossing".[42]

3.3 Conclusion

Therefore it can be concluded that the situation described in the occupied regions of Georgia and examples provided for the reporting period[43] constitute arbitrary detention and therefore violations of Article 9 of the International Covenant on Civil and Political Rights (ICCPR); Article 3 of the Universal Declaration of Human Rights (UDHR); Article 5 of the European Convention on Human Rights (ECHR); and relevant provisions of the OSCE commitments[44].

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[40] April-June 2015

[41] See weekly press reviews on the human rights violations and current events in Abkhazia, prepared by the Justice Department of Georgia's Autonomous Republic of Abkhazia, April-June 2015

[42] See weekly press reviews on the human rights violations and current events in Abkhazia, prepared by the Justice Department of Georgia's Autonomous Republic of Abkhazia, April-June 2015.

[43] April-June 2015

[44] The Vienna Concluding Document (1989) provides for ensuring that no one is subjected to arbitrary arrest, detention or exile. Paragraph 23.1. According to the Moscow Document (1991) "no one will be

4. Freedom of movement

4.1 Introduction

Russian FSB officers administering and controlling the occupation line prevent people, including hundreds of thousands of IDPs and refugees, from exercising their right to freedom of movement and freedom to choose their residence within the borders of the state.[45] The crossing regime that was established by the occupying power along the occupation line in the aftermath of the August War of 2008 puts restrictions and limitations on freedom of movement for people living on both sides of the administrative boundary line (ABL) with Abkhazia and the Tskhinvali Region. It has been argued by the Council of Europe that "[p]redictability and transparency of the crossing regime at the ABL continue to be hindered by the confusion surrounding the validity of documents used for crossing purposes. While the majority of people use an Abkhaz "passport", in some cases Forms N° 9 and old Soviet passports reportedly continue to be accepted. The period of validity of their use however remains unclear."[46] The Russian FSB officers guards place undue restrictions on the local population wishing to cross the occupation line; operating crossing points along the occupation lines function in conjunction with the illegal and discriminatory rules imposed by the Russian FSB officers.

4.2 Current situation

The situation described with regard to the freedom of movement continues and has remained unaltered between April and June 2015: numerous cases were reported during the reporting period[47] on violations of the right to freedom of movement[48]. Numerous sources suggest violations of the freedom of movement during the reporting period.

Restrictions on medical care

On 4th May 2015, a 12 year old boy Irakli Tsaava, a resident of the village of Kvemo Barghebi, Gali district, died on the occupation line in the Abkhazia region. The child became a victim of the violation of his right to freedom of movement, namely the boy had severe health problems and his parents decided to take him across the occupation line in order to access medical care in Zugdidi, on the territory controlled by the central government of Georgia. However Russian FSB border officers did not allow him to cross the occupation line and that resulted in the death of the 12 year old child on the occupation line. The Ministry of Foreign Affairs of Georgia made a statement on this tragic case.[49] The

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deprived of his liberty except on such grounds and in accordance with such procedures as are established by law". Paragraph 23.1 (i).

[45] Report of the Year 2014 of the Public Defender of Georgia on the Situation of Rights of the Population Affected by the Conflicts, 5 June 2015, pages 16-20.

[46] Consolidated Report on the Conflict in Georgia, Council of Europe (November 2014 - March 2015), 22 April 2015, SG/Inf (2015) 18, paragraph 44.

[47] April-June 2015.

[48] See weekly press reviews on the human rights violations and current events in Abkhazia, prepared by the Justice Department of Georgia's Autonomous Republic of Abkhazia, April-June 2015.

[49] Statement of the Ministry of Foreign Affairs of Georgia, 5 May 2015, available at: http://www.mfa.gov.ge/News/%E1%83%A1%E1%83%90%E1%83%92%E1%83%90%E1%83%A0%E1%83%94%E1%83%9D-%E1%83%A1%E1%83%90%E1%83%A5%E1%83%9B%E1%83%94%E1%83%97%E1%83%90-%E1%83%A1%E1%83%90%E1%83%9B%E1%83%98%E1%83%9C%E1%83%

Public Defender of Georgian issued a statement on the disseminated information on death of the child.[50] There are numerous other cases of individuals not allowed to enter territory controlled by the central government of Georgia.[51] For example, information available in the Georgian media and other open sources report the following: on 27th April 2015, a resident of the village of Otobaia, Gali district, was not allowed to enter territory controlled by the central government. The person suffered from a serious illness and needed treatment in Zugdidi Central Hospital, located on territory controlled by the central government of Georgia; on 22nd May 2015, a husband and wife and their two children, one of whom is two years old and suffers from asthma, all of them residents of the village of Okumi, Gali district, were detained by Russian FSB officers for so called "illegal border crossing" in the area of the village of Nabakevi, Gali district. The family intended to travel to territory controlled by the central government of Georgia for medical reasons. While detained, at the Russian FSB base, located in Nabakevi village, the child suffered from an asthma attack and was treated in the local ambulance. Finally, all detainees except the father of the family were released on condition that a payment to be made within a few days at the *de facto* Abkhazia State Security office in Gali.[52]

Easter holiday restrictions

It should be emphasized that during the reporting period, namely during the Orthodox Easter holiday on 12th and 13th April 2015, the so called entry points along the occupation line in the Tskhinvali region were closed. The decision was made by Russia's occupation regime in Tskhinvali, namely by the so called "South Ossetia Committee for State Security" in order to further restrict freedom of movement of local residents. In connection with this religious holiday there is a tradition of visiting churches and cemeteries on both sides of the occupation line. The Ministry of Foreign Affairs of Georgia made a statement on this case.[53]

98%E1%83%A1%E1%83%A2%E1%83%A0%E1%83%9D%E1%83%A1-%E1%83%92%E1%83%90%E1%83%9C%E1%83%AA%E1%83%AE%E1%83%90%E1%83%93%E1%83%94%E1%83%91%E1%83%90-(5).aspx?CatID=5&lang=en-US

[50] Statement of the Public Defender of Georgia of Georgia on the Death of a Boy along the Dividing Line with Abkhazia, 6 May 2015, http://www.ombudsman.ge/en/news/statement-of-the-public-defender-on-the-death-of-a-minor-on-the-administrativeboundary-line-with-abkhazia.page.

[51] It should be noted that the system of health care of Georgia operates a program that ensures free of charge medical treatment of people living in the occupied regions of Georgia. According to the official data, in 2014 from the occupied region of Abkhazia 352 ethnic Abkhazians benefited from this medical system on the territory controlled by the central government.

[52] See weekly press reviews on the human rights violations and current events in Abkhazia, prepared by the Justice Department of Georgia's Autonomous Republic of Abkhazia, April-June 2015.

[53] Statement of the Ministry of Foreign Affairs of Georgia in reaction to the closing of the so-called entry points along the Tskhinvali region's occupation line during the Easter holiday, 11 April 2015, available at http://www.mfa.gov.ge/News/%E1%83%92%E1%83%90%E1%83%9C%E1%83%AA%E1%83%AE%E1%83%90%E1%83%93%E1%83%94%E1%83%91%E1%83%90-%E1%83%AA%E1%83%AE%E1%83%98%E1%83%9C%E1%83%95%E1%83%90%E1%83%9A%E1%83%98%E1%83%A1-%E1%83%A0%E1%83%94%E1%83%92%E1%83%98%E1%83%9D%E1%83%9C%E1%83%A8%E1%83%98-%E1%83%A1%E1%83%90%E1%83%90%E1%83%A6%E1%83%93%E1%83%92%E1%83%9D%E1%83%9B%E1%83%9D-%E1%83%93%E1%83%A6%E1%83%94%E1%83%A1%E1%83%90%E1%83%A1%E1%83%AC%E1%83%90%E1%83%A3%E1%83%9A.aspx?CatID=5&lang=en-US.

Detention linked to "Jonjoli" harvesting

May is the month for the "Jonjoli" harvest in Georgia. "Jonjoli" or bladdernut is a shrub that grows wild in areas adjacent to the occupation line. "Jonjoli" is used for cooking in Georgia and is sold in markets; it constitutes the main source of income for some people living in villages. Information available in the Georgian media and other open sources report the following cases: in May 2015, dozens of people were detained by Russians FSB officers patrolling the occupation line in villages mostly around the town of Sachkere, which is a town located on territory controlled by the central government of Georgia. For example, on 8th May 2015, a resident of the village of Korbouli, Sachkhere district, was detained for so called "illegal border crossing" by Russian FSB officers while harvesting "jonjoli". The detainee was released on 13th May after paying a fine amounting to 2 000 rubles; on 16th May 2015, a resident of the village of Gorisa, Sachkhere district, was detained by Russian FSB officers while harvesting "jonjoli" for so called "illegal border crossing". The detainee was released on 19th May after paying a fine amounting to 2 000 rubles; on 19th May 2015, a resident of the village Khvani, Sachkhere district, was detained by Russian FSB officers while harvesting "jonjoli" for so called "illegal border crossing". The detainee was released on 26th May after paying a fine amounting to 2 000 rubles; on 26th May 2015, a resident of the village Argveti, Sachkhere district, was detained by Russian FSB officers while harvesting "jonjoli" for so called "illegal border crossing." The detainee was released on 1st June after paying a fine amounting to 2 000 rubles.[54]

4.3 Conclusion

Therefore it can be concluded that the situation described in the occupied regions of Georgia and examples provided for the reporting period[55] constitute violations of the right to freedom of movement, namely of Article 12 of the International Covenant on Civil and Political Rights (ICCPR); Article 13 of the Universal Declaration of Human Rights (UDHR); Article 2, Protocol No. 4 of the European Convention on Human Rights (ECHR); and the OSCE freedom of movement commitments[56]. And limitations imposed by the Russian FSB officers on freedom of movement and residence in the occupied regions of Georgia cannot be considered as permissible.[57] It can be further concluded that limitations on freedom of movement in the occupied regions of Georgia violate the economic, social

[54] See weekly press reviews on the human rights violations and current events in Abkhazia, prepared by the Justice Department of Georgia's Autonomous Republic of Abkhazia, April-June 2015.

[55] April-June 2015.

[56] According to paragraph 33 of the Moscow Document (1991), the OSCE participating States are obliged to remove all restrictions with regard to travel within the territory of a State and with regard to residence for those entitled to permanent residence within the territory of a State. And according to paragraph 20 of the Vienna Concluding Document (1989), the OSCE participating States are committed to secure the right of everyone to freedom of movement and residence within the borders of a State.

[57] For example, under paragraph 3 of Article 12 of the ICCPR, the following measures could constitute permissible restrictions on the right under paragraph 1: traffic safety rules, restrictions on access to nature reserves, avalanche zones, quarantine zones, and prohibitions on unlicensed access to private property. (Joseph, S. Schultz J. and Castan, M. The International Covenant on Civil and Political Rights: Cases, Materials and Commentary (Oxford: Oxford University Press, 2004, p. 364). According to paragraphs 3 and 4 of Article 2, Protocol No. 4 of the ECHR, any measure restricting the right in paragraph 1 must be lawful and pursue one of the legitimate aims listed and strike a fair balance between the public interest and the individual's rights. (Riener v Bulgaria, (App 46343/9), 23 May 2006, (2007) 45 EHRR 723, paragraph 109).

and cultural rights under the International Covenant on Economic, Social and Cultural Rights and relevant international instruments.[58]

5. Right to property

5.1 Introduction

The issue of homes and property lost during the conflicts in Georgia remains unsolved. For years, the right to property has been subject to systematic and gross violations in the occupied regions of Georgia; hundreds of houses of ethnic Georgians were burned/destroyed deliberately during and after the August War of 2008.[59] For example, in the village of Zardiaantkari, Gori district, most of the houses were destroyed.[60] And in the village of Gugutiantkari, Gori district, the residents lost access to 50 per cent of their agricultural land plots since they are located now on the other side of the occupation line.

5.2 Current situation

The situation described with regard to the right to property remained the same between April and June 2015. Numerous sources suggest continuing violations of the rights to property during the reporting period[61]: for example, according to information disseminated on 23rd April 2015, Russian occupation forces were carrying out in the Gali and Ochamchire districts demolition of houses of ethnic Georgians. According to the same source, ethnic Georgians living in Gali reported the following via telephone "the process of the demolition of houses in some villages of Gali district and in the town of Gali itself has already started. These are houses that have been deserted since the nineties. Owners of these houses, ethnic Georgians, were expelled in the nineties and never allowed to return due to the fact that members of their families fought in the conflict in order to protect their

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[58] It is of great significance to note that limitations on freedom of movement in the occupied regions of Georgia divides families and communities; blocks the access of the local population to their agricultural lands and potable/irrigation water systems; prevents the local population from visiting religious sites and from having access to cemeteries; restricts the right to education in the native language; and most alarmingly, blocks local residents from reaching the emergency medical services. It has been argued that socio-economic conditions of people residing in the vicinity of the occupation line is grave. For example, see "Information Bulletin of Public Defender of Georgia: On Human Rights of Conflict Affected Population", Public Defender of Georgia, 2014, pp. 5-7.

[59] "Human Rights in the War-Affected Areas Following the Conflict in Georgia", OSCE/ODIHR, 27 November 2008, pp. 24-25, pp. 26-28, p. 42, pp. 44-45, p. 61; "August Ruins", Report of the Georgian Non-Governmental Organizations on Violations of Fundamental Human Rights and International Humanitarian Law, August War, 2008, Tbilisi 2009, p. 28; "Human Rights in Areas Affected by the South Ossetia Conflict. Special Mission to Georgia and Russian Federation", by Thomas Hammarberg, the Council of Europe Commissioner for Human Rights (Vladikavkaz, Tskhinvali, Gori, Tbilisi and Moscow, 22-29 August 2008), paragraph 94; "Russia's Responsibility for Human Rights in Occupied Regions of Georgia" Submission from the Georgian Young Lawyers' Association (GYLA), National Institute for Human Rights (NIHR) and Human Rights Priority for consideration at the 113th Session of the Human Rights Committee (16 March – 2 April 2015) Russian Federation, p. 4 and 9.

[60] "Special Report of the Public Defender of Georgia on Human Rights in the Conflict Affected Region, Zardiaantkari: Consequences of War and the Burden of Existence", Public Defender of Georgia, December 2014.

[61] April-June 2015.

houses and families." According to the information disseminated, dozens of houses were demolished in the low zone villages of Gali district and along Komkavshirebi Street, Gali. Four houses were demolished in the village of Okumi. More houses were demolished in the Gali district than in the Ochamchire district. According to the same source, it is planned to sell these plots of lands for building new houses.[62] And according to information disseminated on 10th June 2015, Mr Raul Khajinba, met organizations of war veterans. At the meeting he declared that from the "Prosecutor's Office" he received a list of 100 free flats in the capital Sokhumi and these flats will be handed free of charge to Abkhaz war veterans and newly established families. It should be noted that these free 100 flats in Sokhumi represent the property of IDPs.[63] It should be emphasized that during the reporting period the United Nations General Assembly made a resolution stressing "the need to respect the properly rights of all internally displaced persons and refugees affected by the conflicts in Georgia and to refrain from obtaining property in violation of these rights".[64]

5.3 Conclusion

Therefore it can be concluded that the situation described in the occupied regions of Georgia and examples provided for the reporting period[65] violate the right to property, namely Article 17 of the Universal Declaration of Human Rights (UDHR); Article 1, Protocol No. 1 of the European Convention on Human Rights (ECHR); and the OSCE commitments[66].

6. Right to education in the native language

6.1 Introduction

The right to receive education in the native language is widely recognized under international law.[67] In the Gali district there are 31 schools. There are 4, 459 pupils and 918 employees in these 31 schools. From 4, 459 pupils, 4, 351 i.e. 97.57 per cent, are ethnically Georgian. From 918 employees, 91.78 per cent are ethnically Georgian.[68] From 31 schools

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[62] See weekly press reviews on the human rights violations and current events in Abkhazia, prepared by the Justice Department of Georgia's Autonomous Republic of Abkhazia, April-June 2015, p 9

[63] See weekly press reviews on the human rights violations and current events in Abkhazia, prepared by the Justice Department of Georgia's Autonomous Republic of Abkhazia, April-June 2015.

[64] Resolution adopted by the General Assembly on 3 June 2015 on Status of internally displaced persons and refugees from Abkhazia, Georgia, and the Tskhinvali region/South Ossetia, Georgia A/RES/69/286, paragraph 2. See also previous resolutions: 68/274 of 5 June 2014; 67/268 of 13 June 2013; 66/283 of 3 July 2012; 65/287 of 29 June 2011 etc.

[65] April-June 2015

[66] The OSCE commitments impose obligation on states to ensure that everyone has the right to enjoy property and that no one may be deprived of properly except under conditions provided for by law. Moscow Document (1991), paragraph 24; Copenhagen Document (1990), paragraph 9.6

[67] Languages and the Realization of the Right to Education, UNESCO. For example, under the ECHR, the right to education implies the right to be educated in the national language. Belgian Linguistic Case, Judgment of 23 July 1968, para 3 (A 6 (1968), p.31). In Cyprus v. Turkey the Court stated that the abolishing the facility for Greek-Cypriot children in Northern Cyprus for pursuing a secondary education in the Greek language violated Article 2 of the ECHR. Judgment of 10 May 2001, paragraphs 273-280.

[68] This data is based on the information supplied by the Educational Resource Centre of Gali district.

only 11 schools, all of which are in "lower zone" of Gali district, have the status of Georgian schools where subjects are taught in the Georgian language.[69] It is alarming that in these 11 schools, the teaching hours of the Georgian language and literature has been decreased from 10-10 hours to 6-6 hours. These 4-4 hours are used for teaching the Russian language.[70] However, it should be noted that in these 11 schools the teaching of the history of Georgia and geography of Georgia is banned and the documents cannot be processed in the Georgian language.[71] As for 9 schools which are in "upper zone" of Gali district, subjects are taught only in the Russian language and only 1-1 hour is allocated for learning the Georgian language and Georgian literature.[72] It should be emphasized that the process of the installation of barbed wire fences by the Russian Federation and limitations on freedom of movement in the occupied regions of Georgia violate human rights, including, the right to education in the native language.

6.2 Current situation

Before 2014, in 11 Georgian schools in the Gali district, the Russian language was taught from 3rd grade classes as a foreign language and now the Russian language is being taught from the 1st grade classes as a "mother tongue".[73] According to the decision taken, in all schools of "lower zone" of Gali district, including in the 11 Georgian schools in the academic year 2015-2016, all subjects in the 1st grade classes will be taught in the Russian language.[74] It is noteworthy that this is a practice which has been used in the schools of "upper zone" of Gali district where Russian language 1st grade classes gradually replaced Georgian language 1st grade classes and Georgian schools gradually became Russian schools.[75] It should be recalled that replacement of the Georgian curriculum with a Russian curriculum in the schools of the Gali district was a part of a pre-electoral campaign of Mr Raul Khajinba. On 12th March 2015, Mr Khajinba publicly declared when meeting the Gali residents that in the remaining 11 Georgian schools in the Gali district, the curriculum will become Russian from September 2015.[76] On 22nd May 2015, a teacher's conference was held in Gali; at the conference it was stated clearly that the decision had been made to transform the 11 schools of "lower zone" of Gali district into Abkhazian standards – implying teaching in the Russian language.[77] The fate of the status of the Georgian

[69] Report of the Year 2014 of the Public Defender of Georgia on the Situation of Rights of the Population Affected by the Conflicts, 5 June 2015, page 26.

[70] 2014 Annual Report of the Public Defender of Georgia on the Situation of Human Rights and Fundamental Freedom in Georgia, page 845.

[71] Proceedings of "Conference on the Right to Education in the Georgian Language in the Occupied Gali District", held on 23 June, 2015.

[72] Report of the Year 2014 of the Public Defender of Georgia on the Situation of Rights of the Population Affected by the Conflicts, 5 June 2015, page 27.

[73] 2014 Annual Report of the Public Defender of Georgia on the Situation of Human Rights and Fundamental Freedom in Georgia, page 845.

[74] Proceedings of "Conference on the Right to Education in the Georgian Language in the Occupied Gali District", held on 23June, 2015.

[75] 2014 Annual Report of the Public Defender of Georgia on the Situation of Human Rights and Fundamental Freedom in Georgia, page 845.

[76] See weekly press reviews on the human rights violations and current events in Abkhazia, prepared by the Justice Department of Georgia's Autonomous Republic of Abkhazia, April-June 2015.

[77] Proceedings of "Conference on the Right to Education in the Georgian Language in the Occupied Gali District", held on 23 June, 2015.

language and the number of hours of the Georgian language and literature to be taught in these 11 schools remain unclear.[78]

Children residing in the occupied villages of Saberio, Pichor and Meore Otobaia, Gali district, need to cross the occupation line in order to go to the schools in the Tsalenjikha and Zugdidi districts on territory controlled by the central government of Georgia. For comparison, in 2014, 103 schoolchildren were registered from the occupied regions in these schools and now in 2015 the number is 45; parents of the schoolchildren were forced to take their children to schools in the occupied region.[79] According to information disseminated on 13th April 2015, there are plans to ban teaching in the Georgian language in the Gali district. According to residents of the Gali district, they are warned that from September 2015 their children will be taught only in Russian and Abkhazian languages. On 14th April 2015, Mr David Usupashvili, President of the Parliament of Georgia publicly commented on disseminated news on possible ban of the Georgian language in the Gali district. He stated that learning and education issue in the occupied Gali always was connected to many problems and that currently the Georgian authorities are not in a position to solve all the problems on the ground in Gali.[80] According to Ms Nona Shonia, Head of the Educational Resource Centre of the Gali district, from the academic year 2015-2016 the scope of the Georgian language in 11 Georgian schools of the Gali district will be further restricted and the subjects will be taught in the Russian language.[81] According to information disseminated on 13th April 2015, school directors and superior administrative staff of the schools in the occupied region of Abkhazia are banned to cross the occupation line and enter territory controlled by the central government of Georgia without special permission. According to the source, this ban might be extended to include all Georgian language teachers.[82]

6.3 Conclusions

Therefore it can be concluded that the situation described in the occupied regions of Georgia and examples provided for the reporting period[83] constitute violations of the right to education in one's native language and therefore violations of Article 26 (read in conjunction with Article 2) of the Universal Declaration of Human Rights (UDHR); Article 2, Protocol No. 1 of the European Convention on Human Rights (ECHR); Article 28 (read in conjunction with paragraph 1 of Article 2) of the UN Convention on the Rights of the Child; and relevant provisions of OSCE commitments[84].

[78] Proceedings of "Conference on the Right to Education in the Georgian Language in the Occupied Gali District", held on 23 June, 2015.

[79] Proceedings of "Conference on the Right to Education in the Georgian Language in the Occupied Gali District", held on 23 June, 2015.

[80] Comment by Mr David Usupashvili "Teaching and Learning Issue in Gali always was Connected to Many Problems", Interpressnews, 14 April, 2015.

[81] See weekly press reviews on the human rights violations and current events in Abkhazia, prepared by the Justice Department of Georgia's Autonomous Republic of Abkhazia, April-June 2015.

[82] See weekly press reviews on the human rights violations and current events in Abkhazia, prepared by the Justice Department of Georgia's Autonomous Republic of Abkhazia, April-June 2015.

[83] April-June 2015.

[84] According to paragraph 63 of the Vienna Document (1989), all shall have access to "the various types and levels of education without discrimination as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status."

7. Appeal to the international community

The Ministry of Foreign Affairs of Georgia appeals to the international community, states as well as international intergovernmental and non-governmental organizations:

- to continue recognizing extensively and widely the occupation of the territories of Georgia by the Russian Federation.
- to continue calling on the Russian Federation to bear responsibility for human rights violations on the occupied regions of Georgia.
- to continue calling on the Russian Federation to stop placing and remove barbed wire fences and other artificial obstacles along the occupation line.
- to take additional measures in order to monitor and report on the human rights situation in the occupied regions of Georgia, more specifically, the Ministry of Foreign Affairs of Georgia appeals to:
    - the Commissioner for Human Rights of the Council of Europe to visit by the end of the year 2015 the Georgian region of Abkhazia and administrative boundary line adjacent to the Tskhinvali region to monitor the human rights situation and report on the situation[83];
    - the Office of the High Commissioner of Human Rights of the UN to take additional measures in order to regularly address and assess the human right situation in Abkhazia and Tskhinvali region of Georgia.
    - the UN Human Rights Council's Special Procedure Mandate holders to take additional measures in order to address and report on the human right situation in Abkhazia and Tskhinvali region of Georgia).
- to continue calling on the Russian Federation to allow a) access of the international human rights monitoring mechanisms to the occupied regions of Georgia; b) relevant missions of international organizations (e.g. EUMM), including humanitarian organizations, to the occupied regions of Georgia through legal routes.
- to continue and intensify condemning violations of human rights such as freedom of movement; freedom from torture and ill-treatment; the right to liberty; the right to property and the right to receive education in the native language in the occupied regions of Georgia.

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[83] See also "The Council of Europe and the conflict in Georgia", decision of the Committee of Ministers' Deputies of the Council of Europe, 1227th Meeting (12 May 2015), paragraph 5.

United Nations A/HRC/30/G/3

General Assembly

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Human Rights Council
Thirtieth session
Agenda item 4
Human rights situations that require the Council's attention

Letter dated 10 September 2015 from the Permanent Representative of the Democratic People's Republic of Korea to the United Nations Office at Geneva addressed to the President of the Human Rights Council

I have the honour to attach herewith the position on the "panel discussion" on the human rights situation in the Democratic People's Republic of Korea (DPRK), to be held during the thirtieth session of the Human Rights Council, as expressed by the spokesman of the Ministry of Foreign Affairs of the DPRK (see annex).

It would be appreciated if you could kindly circulate my letter and the annex thereto* as a document of the thirtieth session of the Human Rights Council under agenda item 4.

(*Signed*) So Se Pyong

Ambassador, Permanent Representative

* Reproduced as received, in the language of submission only.

GE.15-15746(E)

Please recycle

Annex to the letter dated 10 September 2015 from the Permanent Representative of the Democratic People's Republic of Korea to the United Nations Office at Geneva addressed to the President of the Human Rights Council

[English only]

Answer by the spokesman for the Ministry of Foreign Affairs of the Democratic People's Republic of Korea (DPRK)

Spokesman for the Ministry of Foreign Affairs of the DPRK gave the following answer to the question put by Korean Central News Agency (KCNA) on 10 September 2015 as regards the attempt of the U.S. and other forces hostile to the DPRK to kick off again an anti-DPRK racket on the UN human rights arena over its non-existent "human rights issue":

The forces hostile to the DPRK are going to organize a "panel discussion" concerning the "human rights situation" of the DPRK during the 30th session of the UN Human Rights Council to be held in Geneva from 14 September 2015. They are to invite "human rights experts" as "panellists" to the "discussion" and stage a farce slandering the DPRK.

The "panelists" will reportedly make speeches on various themes at the "panel" to be held under the backstage manipulation of the U.S. and on the initiative of its followers. Those "themes" are all based on fabrications from an anti-DPRK "report of commission of inquiry 'COI'" and "human rights resolution" that had gone bankrupt with their falsity already fully revealed.

The "COI report" is peppered with fabrications distorting and slandering the DPRK where genuine human rights are ensured at the highest level as its keynote was cooked up on the basis of false testimonies made by such riff-raffs as "defectors from the north" and without any proper confirmation on the spot.

All the "defectors from the north" being used by the hostile forces as "testifiers" are human scum who deserted after being involved in such crimes as theft, rape of girls under age, abduction of children and flesh traffic. The DPRK will chase them to the last one and bring to light their true colors.

Those who are unaware of human rights system in the DPRK as they fail to see its true situation with their own eyes are going to say this or that about its "human rights situation." Lurking behind it is an ulterior political motive.

Now the U.S., after the clinch of a nuclear deal with Iran, is crying out for putting pressure upon the DPRK, with the main emphasis on its "human rights issue", leaving no means untried to intensify politically-motivated provocations aimed at bringing down its social system on the UN arena.

EU and Japan are taking the lead in the U.S.-led campaign. Notably, Japan is getting zealous in its efforts for the coming "panel." It seems that Japan would scrap the matter agreed upon with the DPRK.

Recently, western media noted that the "COI report on human rights records in north Korea and resolution against it" are targeting the "change of social system in north Korea" and that the U.S. and its allies are "seeking a regime change through human rights campaign against north Korea." This clearly shows what the hostile forces seek in the "panel discussion."

The more desperately the U.S. and other hostile forces move to bring down the most advantageous socialist system of the DPRK, the life of its people and the cradle of their happiness, the tougher stand the DPRK will take to counter the moves.

United Nations A/HRC/30/G/4

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Human Rights Council
Thirtieth session
Agenda item 2
Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General

Note verbale dated 16 September 2015 from the Permanent Mission of Sri Lanka to the United Nations Office at Geneva and other international organizations in Switzerland addressed to the Office of the United Nations High Commissioner for Human Rights

The Permanent Mission of the Democratic Socialist Republic of Sri Lanka to the United Nations Office at Geneva and other international organizations in Switzerland presents its compliments to the Office of the United Nations High Commissioner for Human Rights (OHCHR) and, with reference to note verbale 279/2015 of the Permanent Mission dated 15 September 2015, has the honour to request that the present note verbale and the comments of the Government of Sri Lanka (see annex)* be circulated as a document of the thirtieth session of the Human Rights Council, and also be posted alongside the report of the Office of the High Commissioner on Sri Lanka (A/HRC/30/61) and the OHCHR investigation on Sri Lanka (see A/HRC/30/CRP.2).

* Reproduced as received, in the language of submission only.

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Annex to the note verbale dated 16 September 2015 from the Permanent Mission of Sri Lanka to the United Nations Office at Geneva and other international organizations in Switzerland addressed to the Office of the High Commissioner for Human Rights

[English only]

Comments of the Government of Sri Lanka on the report of the Office of the United Nations High Commissioner for Human Rights (OHCHR) (A/HRC/30/61) and the OHCHR investigation on Sri Lanka (A/HRC/30/CRP.2)

The Government of Sri Lanka,

- Takes note of the Report of the Office of the High Commissioner for Human Rights (A/HRC/30/61), and the recommendations made by the High Commissioner.
- Is pleased and encouraged by the High Commissioner's recognition of the efforts of the new Government since the Presidential election of 8 January 2015 in dealing with issues of concern for the people of Sri Lanka relating to human rights, rule of law, governance, justice, institutional and legal reform and reconciliation.
- Appreciates the due recognition given to the Government's constructive engagement with the High Commissioner and OHCHR aimed at addressing post-conflict issues that impact on achieving reconciliation.
- Remains firm in its conviction to take all possible measures to ensure non-recurrence in keeping with the mandate given by the people of the country twice this year, 2015, at the Presidential election in January and the Parliamentary election in August.
- Will ensure dialogue and wide consultations with all stakeholders especially the victims of conflict, communities, political parties, civil society representatives, the military as well as the High Commissioner and his Office, bilateral partners, and other international organisations in putting in place mechanisms and measures that will facilitate the right to know, right to justice, reparations and guaranteeing non-recurrence with the aim of achieving reconciliation and durable peace to ensure long-term progress of all her citizens.
- Takes note also of the Report of the OHCHR Investigation on Sri Lanka (OISL), recognises fully that this Report represents a human rights investigation and not a criminal investigation, and will ensure that its content as well as recommendations receive due attention of the relevant authorities including the new mechanisms that are envisaged to be set up.
- Remains open to continuing its engagement with the High Commissioner and his Office as well as the systems and procedures of the Human Rights Council, aimed at taking steps to safeguard and uphold the human rights of all her citizens.

United Nations A/HRC/30/G/5

General Assembly

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Human Rights Council
Thirtieth session
Agenda item 10
Technical assistance and capacity-building

Note verbale dated 15 September 2015 from the Permanent Mission of Ukraine to the United Nations Office at Geneva and other international organizations in Switzerland addressed to the secretariat of the Human Rights Council

The Permanent Mission of Ukraine to the United Nations Office and other international organizations in Geneva presents its compliments to the secretariat of the Human Rights Council and, with regard to the interactive dialogue on the update of the United Nations High Commissioner for Human Rights on Ukraine, to be held on 29 September 2015, under agenda item 10, has the honour to refer to the eleventh report of the Office of the High Commissioner (OHCHR) on the human rights situation in Ukraine (16 May to 15 August 2015), which has been posted on the OHCHR website at www.ohchr.org/Documents/Countries/UA/11thOHCHRreportUkraine.pdf.

In this connection, the Permanent Mission of Ukraine would appreciate it if the secretariat of the Human Rights Council could kindly circulate the present note verbale as a document of the thirtieth session of the Human Rights Council under agenda item 10.

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